

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY¹

Date of Incident:	May 22, 2019
Time of Incident:	11:50 a.m.
Location of Incident:	██████████ Street (inside residence)
Date of COPA Notification:	May 22, 2019
Time of COPA Notification:	12:12 p.m.

On the date of incident at approximately 10:43 a.m. a 911 caller, homeowner ██████████ requested police assistance and reported that his son, ██████████ was at his home and did not want to leave. He reported ██████████ had an untreated mental health condition and there was a bench warrant for his arrest. At approximately 10:53 a.m. ██████████ called 911 a second time and reported that he was having a domestic problem and that his son “might”² have a gun.

Multiple Chicago Police Department (“Department”) Officers from the 003rd district responded to the ██████████ home at ██████████ Street.³ Third district Department officers secured the perimeter and Crisis Intervention Team (“CIT”) trained officers,⁴ Officer Joseph Bennett and Officer Joseph Negrón remained on the first floor, foyer area of the residence while speaking to ██████████ who was on the second floor. The officers offered him help and repeatedly instructed him to put his gun down. ██████████ repeatedly asked the officers to kill him. Between speaking with officers, ██████████ fired his weapon multiple times while on the 2nd floor.⁵ At one-point ██████████ pointed his gun in the direction of Officers Bennett and Negrón. The officers took cover further back and commanded him not to point his weapon.

Subsequently, the incident was deemed to be a Hostage Barricade Terrorist (HBT) incident and Special Weapons and Tactics (“SWAT”) was called. SWAT Officer Orlando Sanchez Jr. and his partner, Officer Trung Nguyen, along with SWAT Officer Daniel Colbenson and his partner, Officer Colin Shiels⁶ arrived at the home. They were told that ██████████ was in the upstairs bedroom of the residence with a firearm, had fired several rounds before their arrival and was

¹ The narrative portion of this Executive Summary is based on the evidence detailed more fully in section V below.

² Att. 12, at 28 seconds.

³ In the course of its investigation, the Civilian Office of Police Accountability (“COPA”) determined that the University of Chicago Police Department (“UCPD”) officers that were also on the scene at the time of the incident did not play a significant role in this incident. UCPD officers are governed by their own department rules and protocols and COPA has no jurisdiction over UCPD officers.

⁴ Att. 146, Special Order S05-14-01, Crisis Intervention Team Response explains that “CIT members are Department members who have voluntarily attended and successfully completed the 40-hour Basic CIT Training and have been certified by the Illinois Law Enforcement Training and Standards Board (ILETSB) as CIT officers. The Basic CIT Training is an in-depth specialized training course that provides officers with education about mental illness signs and symptoms and de-escalation techniques.”

⁵ During the time that ██████████ fired his weapon, officers did not know what he was firing at.

⁶ All SWAT officers are CIT-trained and SWAT officers are not assigned Body-Worn Cameras (“BWC”).

going down to the first floor. Officer Sanchez positioned himself at the bottom of the stairwell leading up to the second-floor bedrooms. Officer Colbenson cleared the residence and then positioned himself next to Officer Sanchez. Officer Sanchez engaged in conversation with ██████ including offering him help, as well as instructing him to put his gun down. Shortly thereafter, Officers Sanchez and Colbenson observed a partial view of ██████ from the top of the stairwell landing. ██████ was holding his firearm and at times pointing it in their direction while he was speaking to them. Officer Sanchez responded by recessing and repositioning himself. Immediately before Officers Colbenson and Sanchez fired their weapons, ██████ exposed his body further out from the top of the stairwell while directly pointing his firearm in the direction of Officers Sanchez and Colbenson.

In response to these movements, Officer Sanchez fired his weapon at ██████ five (5) times and Officer Colbenson fired his weapon at ██████ two (2) times. ██████ fell onto the top landing area of the stairwell and his black semi-automatic pistol landed on one of the top steps near his body. Officers Sanchez and Colbenson then proceeded to the second floor of the residence to clear the area. SWAT medic, Officer Brian Bardsley Jr., who was inside the residence near the kitchen area when shots were fired, rendered medical aid to ██████. An ambulance was called, and ██████ was transported to the University of Chicago Hospital where he was pronounced deceased. ██████ sustained eight (8) gunshot wounds.⁷

COPA initiated this investigation on May 22, 2019. The investigation consisted of interviewing involved Department officers, witness Department officers, ██████⁸ analysis of physical evidence, digital evidence, documentary evidence, and all other evidence. As a result of its investigation, COPA finds that a preponderance of the evidence demonstrates that Officer Sanchez' and Officer Colbenson's use of deadly force was objectively reasonable under the totality of the circumstances. Throughout the course of the investigation, COPA learned that Officer Colbenson was in violation of administrative department policies, which have been addressed through allegations and findings as discussed more fully below.

II. INVOLVED PARTIES

Involved Officer #1:	SANCHEZ Jr., Orlando; Star #19244, Employee ID #█████, Date of Appointment: December 2, 1996; Chicago Police Officer; Unit 353 (SWAT); Date of Birth: ██████, 1972; Hispanic male.
Involved Officer #2:	COLBENSON, Daniel S.; Star # 16857, Employee ID #█████; Date of Appointment: August 25, 2003; Chicago Police Officer; Unit 353 (SWAT); Date of Birth: ██████, 1970; White male.

⁷ The medical examiner (“ME”) office reported that some of the gunshot wounds were deemed superficial in that they perforated the skin and those superficial gunshot wounds did not cause the death of ██████. Refer to the ME report under Att. #79.

⁸ ██████ is the father of ██████. He did not witness the shots fired. However, he was a witness to the events surrounding the incident, including seeing ██████ with a gun. There were no other civilian witnesses as this incident took place inside of the residence that responding officers had previously cleared.

Involved Individual #1: [REDACTED] Date of Birth: [REDACTED], 1996; Black male.

III. ALLEGATIONS

Pursuant to section 2-78-120 of the Municipal Code of Chicago, COPA has a duty to investigate all incidents in which a Chicago Police Department member discharges their firearm. During its investigation of this incident, COPA did not find evidence to support allegations of excessive force related to Officer Colbenson’s or Officer Sanchez’s firearm discharge. COPA did determine that Officer Colbenson committed the following violations of Department rules and policy:

Officer	Allegation	Finding / Recommendation
Officer Daniel Colbenson #16857	<p>It is alleged by the Civilian Office of Police Accountability that on or about May 22, 2019, at approximately 11:00 a.m., in the area of [REDACTED] Street:</p> <ol style="list-style-type: none"> Officer Colbenson was in violation of department policy in that his Firearm Owner’s Identification Card (“FOID”) was expired. Officer Colbenson was in violation of Uniform and Property Order U04-02-05, in that his carbine magazine was underloaded three rounds short of capacity, in excess of the permissible two round allowance. 	<p>Sustained</p> <p>Sustained</p>

IV. APPLICABLE RULES AND LAWS

Rules⁹

1. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 6: Disobedience of an order or directive, whether written or oral.

⁹ Police Board of Chicago, *Rules and Regulations of the Chicago Police Department, Article V. Rules of Conduct* (April 1, 2010) <https://www.chicago.gov/dam/city/depts/cpb/PoliceDiscipline/RulesofConduct.pdf>

3. Rule 10: Inattention to Duty.

General Orders¹⁰

1. General Order G03-02: Use of Force (*effective* Oct. 16, 2017)
 2. 2. General Order G03-02-01: Force Options (*effective* October 16, 2017)
 2. General Order G03-02-03: Firearms Discharge Incidents Involving Sworn Members (*effective* Oct. 16, 2017)
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Special Orders

1. Uniform and Property U04-02: Department Approved Weapons and Ammunition (*effective* June 2, 2017)
2. Uniform and Property U04-02-05: Police Carbine Operator Program (*effective* March 8, 2019)

V. INVESTIGATION¹¹

a. Interviews

Civilian Interview

In a statement to COPA on May 22, 2019, ██████████ stated that ██████████ arrived at his home from Arizona on May 21, 2019.¹³ ██████████ was on probation for domestic abuse and missed a court date. ██████████ was going to turn himself into the police. On the night of May 21, 2019, ██████████ went out and got drunk. On the morning of May 22, 2019, ██████████ was hung-over and asked ██████████ for “his stuff”¹⁵ which ██████████ had no knowledge of. While inside of the home, ██████████ asked his father to call the police to come there and pick him up, instead of turning himself in. ██████████ called the police, telling them that his son has been drinking all night, that he has a probation violation, and that he wants the police to come get him.¹⁶ ██████████ then called his wife and he stated that she told him that ██████████ had called her and accused her of taking his gun.¹⁷

¹⁰ Department general and special orders, also known as directives, “are official documents establishing, defining, and communicating Department-wide policy, procedures, or programs issued in the name of the Superintendent of Police.” Department Directives System, General Order G01-03; *See also* Chicago Police Department Directives System, available at <http://directives.chicagopolice.org/directives/> (last accessed May 18, 2021).

¹¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in COPA’s analysis.

¹² Statement of ██████████ to COPA dated May 22, 2019 (Attachments 41, 130). This statement was taken inside of a room at the University of Chicago Hospital. Certain specialists/employees from the University of Chicago Hospital including: ██████████ (exact spelling of names is unknown) were present in the room at the time.

¹³ ██████████ stated in his Electronically Recorded Interview (“ERI”) to Department (Attachment 25) that he had not seen ██████████ for approximately 4 months as he was in Arizona.

¹⁴ ██████████ referred to his son as ██████████ throughout the statement, as do many officers on-scene during the incident and in subsequent statements. Throughout this report, ██████████ is referred to either as ██████████ or ██████████ to best capture the dialogue used during the incident.

¹⁵ Statement of ██████████ to COPA dated May 22, 2019, page 6, line 9.

¹⁶ Statement of ██████████ to COPA dated May 22, 2019, page 27, lines 19-22.

¹⁷ Statement of ██████████ to COPA dated May 22, 2019, page 6, lines 18-20.

After speaking to his wife, ██████ called the police a second time and notified them that he believed his son had a gun. Subsequently, police arrived at the home. ██████ remained upstairs. ██████ told the police that ██████ had been suffering from a mental health disorder since the age of seventeen, had “mental issues”¹⁸ and had not been on medication for some time.¹⁹ The police told ██████ that they were not going to take ██████ to jail and would take him to the hospital. ██████ went up to the second floor to get ██████ to come down. ██████ was sitting on a bed and told his father to tell the police to come upstairs. ██████ noticed that ██████ hand was underneath the covers. ██████ came downstairs and told the police that ██████ may have a gun and ██████ wanted them to come upstairs. The police stated they would not go up. ██████ went upstairs a second time. ██████ asked for a cigarette and when he went to light the cigarette, ██████ pulled back the covers and observed ██████ hand on a black 9mm gun. ██████ ran downstairs and notified the police.

██████ remained in the dining room area as officers talked to ██████ for approximately 30 minutes from the bottom of the staircase. Two officers positioned at the bottom of the stairs pointed their firearms towards the top of the stairs. ██████ told the officers to “come up and kill me”²⁰ in which the officers responded that no one was going to get shot. ██████ told the officers that his daughter was deceased and blamed himself.²¹ Subsequently, ██████ fired a gunshot. Sometime later, he fired a second gunshot. Officers repeatedly asked for ██████ to throw the gun down, they offered him help and asked him questions. ██████ was removed from the home for safety. He was taken to a safe location about a block away and was notified that SWAT was in route. He heard more shots and did not know who fired. ██████ wife met with him on-scene. They spoke to a black male “negotiator”²² in plainclothes, who asked them questions about ██████ mental state. The negotiator later notified ██████ that there was a shooting and ██████ had been transferred to the hospital.

██████ stated that ██████ had a history of being suicidal starting from the age of 14. ██████ stated that at some point prior to the incident, his son had written him, and his wife text messages “almost like saying goodbye.”²³ ██████ stated that the “police were helpful, they tried”²⁴ based on his observations.

¹⁸ Statement of ██████ to COPA, dated May 22, 2019, page 8, line 21.

¹⁹ Statement of ██████ to COPA dated May 22, 2019, page 8, line 19-23.

²⁰ Statement of ██████ to COPA dated May 22, 2019, page 13, lines 9-10.

²¹ According to ██████ approximately three years prior, ██████ girlfriend had been pregnant, and their daughter was stillborn. ██████ blamed himself for his daughter’s death due to the domestic abuse between himself and his girlfriend.

²² ██████ did not know the name of the negotiator at the time. According to Department Detective Supplementary report, Att. 108, page 13 the negotiator was identified as Detective M. Wright #21410. According to the report, ██████ told Detective Wright that ██████ texted him at 12:14 a.m. on the date of incident “and the text expressed suicidal ideation.”

²³ Statement of ██████ to COPA dated May 22, 2019, page 23, lines 11-13. Refer to ERI interview, Att. #125 at approximately 22 minutes.

²⁴ Statement of ██████ to COPA dated May 22, 2019, page 36, lines 3-4.

Police Interviews

In a statement to COPA on June 26, 2019, **Officer Joseph Bennett**²⁵ stated that on the date and approximate time of incident, he was on-duty, in plain-clothes, assigned to Beat 306D and partnered with Officer Joseph Negrón and Officer David Herrera. Officer Bennett is a CIT trained officer. He responded to the location of incident after hearing over the radio a “man with a gun call”²⁶ along with information being relayed about a father and his son, and a mental health issue. Officer Bennett activated his BWC during the incident. He arrived at [REDACTED] Street and observed the front door open with a few officers, including UCPD officers, present inside of the residence. Officer Bennett entered the first floor and described that there were stairs to the right, a living room area to the left, and a closet straight ahead. [REDACTED] father, [REDACTED] ran down the stairs yelling words to the effect of “he’s got a gun”²⁷ and “help.”²⁸ Officer Bennett positioned himself at the bottom of the stairs. He announced over the radio that this was a “HBT”(Hostage Barricade Terrorism) situation.

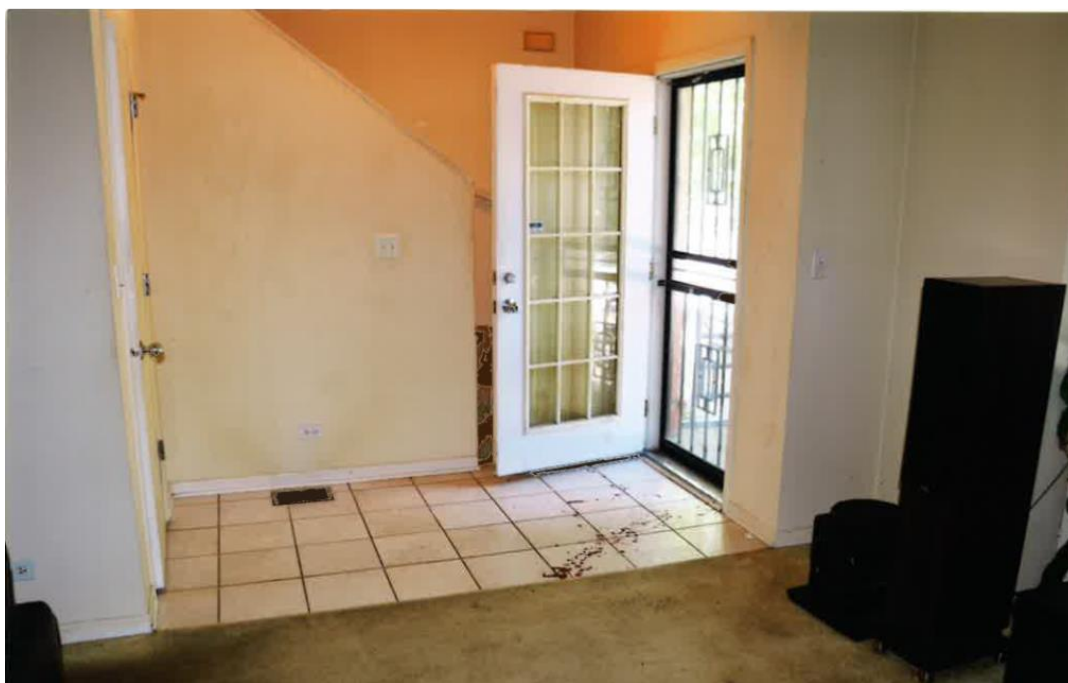


Figure 1: Front foyer area and partial view of staircase at [REDACTED] Street.

²⁵ Statement of Officer Joseph Bennett to COPA dated June 26, 2019 (Attachments 81, 82).

²⁶ Statement of Officer Joseph Bennett to COPA dated June 26, 2019, page 15, line 9-10.

²⁷ Statement of Officer Joseph Bennett to COPA dated June 26, 2019, page 18, line 19.

²⁸ Statement of Officer Joseph Bennett to COPA dated June 26, 2019, page 18, line 21.



Figure 2: Still shot from the BWC of Officer Bennett depicting a view of the staircase at [REDACTED] Street.

Subsequently, Officers Bennett and Negron took tactical stances at the bottom of the staircase. They positioned themselves with their firearms pointed up the staircase to ensure [REDACTED] would not come down. Also, present were Officer Herrera, Sergeant Coffey, a UCPD police officer, and possibly other officers. Officer Bennett engaged in conversation with [REDACTED]. His goal was to keep him talking, to offer him help, to see how he was feeling or what he wanted or needed, and to gain time until a negotiator or back-up arrived. [REDACTED] repeatedly told Officer Bennett that he wanted to die. He further stated, “he would kill somebody if they came up.”²⁹ Officer Bennett told [REDACTED] they would take him to the hospital.

Officer Negron also engaged in conversation with [REDACTED]. Within this period of time, [REDACTED] while still upstairs, fired a total of six (6) shots that were spread out in time. Officers responded by taking cover, “at one point, while we were looking up the stairs, I saw the weapon...we ducked...I told him not to point the gun at me...and that he was going to hurt somebody.”³⁰ Officer Bennett observed a hand on the muzzle of the firearm as it pointed down the stairs, but he could not see the rest of [REDACTED] body.

SWAT officers arrived and took over the scene. Two SWAT officers positioned themselves at the bottom of the stairs. Officer Bennett stated that when SWAT arrived, [REDACTED] voice sounded closer to the stairs than it did prior during their verbal exchange. Officer Bennett left the residence through the rear and positioned himself behind garages. Sometime later³¹ he heard multiple shots fired. He did not know who shot or why they fired, since he was not in the home at the time. Emergency Medical Services (“EMS”) was called, the scene was secured, and Officer Bennett proceeded to the front of the residence. He remained on scene to speak to detectives.

²⁹ Statement of Officer Joseph Bennett to COPA dated June 26, 2019, page 29, line 6-7.

³⁰ Statement of Officer Joseph Bennett to COPA dated June 26, 2019, page 34, line 15-20.

³¹ Officer Bennett stated that he could not gauge the time from when he exited the residence to when he heard multiple shots fired.

In a statement to COPA on June 26, 2019, **Officer Joseph Negron**³² made a statement materially consistent with the statement provided by his partner, Officer Bennett. In addition, he stated that when he first entered the residence, he proceeded to go up the stairs, to the 2nd floor, and when he reached about the fifth step, [REDACTED] father ran down the stairs screaming “Help. He has a gun.”³³ Officer Negron then positioned himself at the bottom of the stairs, along the stair wall banister with his gun drawn, to make sure no one came down. He had learned from [REDACTED] that [REDACTED] had a mental health condition. Officer Negron and his partner began to talk with [REDACTED] and offer him help. At times when [REDACTED] spoke, he sounded as if he had something in his mouth. Officer Negron stated that [REDACTED] “wanted us to come upstairs and to kill him.”³⁴ At some point [REDACTED] threatened to shoot the officers if they came upstairs. [REDACTED] had also pointed his gun at the officers; Officer Negron saw the barrel of the gun but could not see [REDACTED]. They were inside of the home for approximately 40 minutes. While upstairs, [REDACTED] fired his gun six times; each gunshot was approximately five to six minutes apart.³⁵ Subsequently, SWAT took over the scene.

In a statement to COPA on November 18, 2019, **Officer Colin Shiels**³⁶ stated that on the date and approximate time of incident he was on-duty, in uniform, assigned to SWAT Unit 353 and partnered with Officer Colbenson. Officer Shiels stated that upon arriving to the location of incident he parked the SORT³⁷ vehicle east of the address of incident and put on his tactical gear. Officers Colbenson and Sanchez proceeded to gather information and approached the residence. Officer Shiels met with Officer Nguyen; together they were tasked to “scout the location”³⁸ and set up a breach point. Subsequently, Officers Shiels, Colbenson, Sanchez and Nguyen entered the residence. Their priority was to remove the officers from the residence. Officer Shiels escorted district officers to the rear door through the kitchen. He positioned himself on the rear porch while looking up at the second floor. He did not have a visual of the other SWAT officers. He held his position on the rear deck. He heard Officer Sanchez speaking with [REDACTED] and instructing him to put the gun down and to come down and talk. [REDACTED] responded with words to the effect of “I can’t.”³⁹ Officer Shiels then heard approximately five (5) to seven (7) gunshots. He did not know who was firing at the time; he later learned Officers Sanchez and Colbenson fired. Officer Shiels never saw anyone fire their weapons. After the shots were fired, Officer Shiels observed [REDACTED] laying on the staircase, a few steps down from the second-floor landing with a pistol next to his body. Officer Shiels posted himself over [REDACTED] to ensure there was no movement towards the pistol.

In a statement to COPA on November 27, 2019, **Officer Trung Nguyen**⁴⁰ stated that on the date and approximate time of incident he was on-duty, in uniform, assigned to SWAT Unit 353, Beat 4603, partnered with Officer Sanchez and was the driver of their assigned SORT vehicle.

³² Statement of Officer Joseph Negron dated June 26, 2019 (Attachments 84, 85).

³³ Statement of Officer Joseph Negron dated June 26, 2019, page 25, line 2.

³⁴ Statement of Officer Joseph Negron dated June 26, 2019, page 29, line 10.

³⁵ During the statement with COPA, Officer Negron later stated, after a break with his counsel, that he could not recall the time between the gun shots. Statement of Officer Joseph Negron dated June 26, 2019, p.43, lines 3-7.

³⁶ Statement of Officer Colin Shiels to COPA dated November 18, 2019 (Attachments 97, 98).

³⁷ SORT stands for Special Operations Response Team.

³⁸ Statement of Officer Colin Shiels to COPA dated November 18, 2019, page 21, line 13.

³⁹ Statement of Officer Colin Shiels to COPA dated November 18, 2019, page 30, line 13.

⁴⁰ Statement of Officer Trung Nguyen to COPA dated November 27, 2019 (Attachments 100, 101).

Officer Nguyen heard a radio call of repeated shots being fired and SWAT was called to respond. Upon arrival to the location of incident, Officer Nguyen proceeded to put on his tactical gear as Officer Sanchez approached the residence. Officer Nguyen observed district officers taking cover and directing him to the residence. Subsequently, Officer Nguyen met with Officer Sanchez and Officer Colbenson in the front of the residence, and they tactically positioned themselves linear to enter. Upon entry into the home, Officers Nguyen and Shiels cleared and evacuated the first floor of the residence. Officer Shiels positioned himself at the rear of the house. Officer Nguyen proceeded back to the front of the house where he observed Officers Sanchez and Colbenson positioned at the bottom landing of the staircase, facing up and speaking to ██████ Officer Nguyen stood further back into the first floor and to the left of Officer Sanchez, to maintain a visual on his partner and not be in the line of fire. ██████ said words to the effect of “kill me, man. Kill me.”⁴¹ Officer Sanchez asked ██████ to put the gun down. He then observed Officer Sanchez “recess” back twice, with seconds in between each time, while saying words to the effect of ‘whoa, whoa...whoa.’⁴² Officer Nguyen took this to mean, based on his training, that Officer Sanchez had shown a level of restraint in an attempt to “..to try to get away from some kind of lethal force or situation of a weapon being pointed at him, or anything of that nature would cause somebody to kind of back out of that line of fire.”⁴³ On the third time when Officer Sanchez recessed back, Officer Nguyen heard several shots being fired and observed Officer Sanchez firing his weapon multiple times up, towards the top of the stairs. He could not see who Officer Sanchez fired at, nor did he see Officer Colbenson fire his weapon.

Officer Nguyen stated that he could not see a weapon pointed toward Officers Sanchez or Colbenson because from where he stood the stairwell obstructed his line of sight. After the shots were fired, and upon clearing the second floor, Officer Nguyen observed a half-filled bottle of vodka and multiple shell casings inside of one of the rooms. Officer Sanchez and Officer Colbenson told him on a later date that they had fired their weapons at ██████ because he pointed a gun in their direction. Officer Colbenson told him, “He feared for his life and that’s when he fired his gun.”⁴⁴

In a statement to COPA on December 18, 2019, **Officer Brian Bardsley**⁴⁵ stated that on the date and approximate time of incident he was on-duty, in uniform, assigned to SWAT Unit 353, Beat 4692A, while working alone as a SWAT medical team leader. His sole role was medical support. On the date of incident, while at Homan Square, he received a phone call from a SWAT member⁴⁶ who informed him of the location of incident, possible staging area and routing information. Upon his arrival, district officers stated that shots had been fired. He entered through the rear after Officer Shiels cleared him to go inside. He walked into the first-floor kitchen and dining area and observed Officer Nguyen standing in the living room area with his weapon in a low-ready position. Officers Sanchez and Colbenson stood “tucked into the...stairwell [at the front of the residence], and they are looking up.”⁴⁷ Officer Colbenson held a rifle. Officer Bardsley stopped as he observed a staircase going up and was concerned that he was in the line of fire of

⁴¹ Statement of Officer Trung Nguyen to COPA dated November 27, 2019, page 28, line 18 -19.

⁴² Statement of Officer Trung Nguyen to COPA dated November 27, 2019, page 36, line 12-13.

⁴³ Statement of Officer Trung Nguyen to COPA dated November 27, 2019, page 36, lines 18-23.

⁴⁴ Statement of Officer Trung Nguyen to COPA dated November 27, 2019, page 57, line 5-6.

⁴⁵ Statement of Officer Brian Bardsley to COPA dated December 18, 2019 (Attachments 103, 104).

⁴⁶ Officer Bardsley did not recall who called him on this day to relay such information.

⁴⁷ Statement of Officer Brian Bardsley to COPA dated December 18, 2019, page 27, line 2-3.

the threat, which he believed to be at the top of the stairs. He was unable to see anything more than a staircase that went into a small wall. He focused toward the top of the staircase. Officers Sanchez and Colbenson gave verbal direction. He heard ██████ respond but could not make out what he said. Approximately two to five minutes later, while looking towards the top of the staircase, he heard shots being fired. He did not see Officer Sanchez or Officer Colbenson fire their weapons, but he knew they were firing simultaneously; he could distinguish the sounds of a 9mm pistol and a rifle. Officer Bardsley continued looking up at the top of the stairs, “expecting to see a threat come out.”⁴⁸

After the shots were fired, Officer Bardsley called out over the radio that shots were fired, the SWAT officers were fine and further information would be provided as warranted. In an effort to render aid to ██████ as soon as possible, SWAT officers quickly cleared the second floor. Officer Bardsley was then cleared to render aid to ██████ and assessed his injuries to search for areas of massive bleeding. He also observed a small, semi-automatic pistol near ██████⁴⁹ ██████ was still breathing with a weak pulse. Officer Bardsley supported ██████ breathing by using a bag valve mask to assist his respirations. Officer Colbenson assisted Bardsley by squeezing the bag mask. Shortly thereafter, EMS arrived and transported him.

In a statement to COPA on August 6, 2019, involved **Officer Orlando Sanchez Jr.**⁵⁰ stated that on the date and approximate time of incident he was on-duty, in uniform, assigned to SWAT Unit 353, Beat 4603 as a “senior team leader”⁵¹ and partnered with Officer Nguyen. Officer Sanchez stated that he is CIT trained and “negotiator-trained through the FBI.”⁵² He was on routine patrol when there was a call over the OEMC Citywide radio of a SWAT incident, and his beat number was called out. Dispatch reported, “a person with a gun, shots fired in the residence, [and] police are in the residence.”⁵³ Upon arrival, he observed several police officers surrounding the area. A second SORT vehicle arrived to include Officer Colbenson and his partner Officer Shiels. Officers Sanchez and Colbenson proceeded towards the address of incident. He received information from various officers that ██████ was shooting inside of the house and was coming down the stairs. While approaching the front door to the residence, he saw officers in the house. Officer Sanchez “made the call then to push forward and make entry to get between the officers and the armed individual.”⁵⁴

Officer Sanchez entered the residence and positioned himself at the bottom of the open staircase, on the first-floor landing. The staircase was on his right side upon entering the residence. It had a solid half wall [to the left if looking up] and consisted of approximately 10 to 12 steps. At the top of the stairs, it turned left and around a corner wall where there was no clear visual. From his tactical stance to the top of the stairs was approximately seven to eight feet. Officer Sanchez held his ballistic shield in his left hand and his 9-millimeter Glock 17 in his right hand because of the threat of a man with a gun coming down the stairs. District officers provided ██████ name to Officer Sanchez. At some point he also learned that ██████ may have been suicidal. Officer

⁴⁸ Statement of Officer Brian Bardsley to COPA dated December 18, 2019, page 35, line 23.

⁴⁹ Statement of Officer Brian Bardsley to COPA dated December 18, 2019, pages 52-53.

⁵⁰ Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019 (Attachments 88, 89).

⁵¹ Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019, page 6, line 2.

⁵² Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019, page 35, line 20.

⁵³ Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019, page 15, line 16 – 18.

⁵⁴ Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019, page 25, line 22-24.

Sanchez instructed Officer Colbenson, Officer Shiels and Officer Nguyen to evacuate the district officers out of the rear.

Officer Sanchez called out for ██████ and engaged in conversation with him. He attempted to calm him down and offered him help. He asked ██████ if he still had his weapon and ██████ affirmed. He asked ██████ to put his gun down and offered to call someone for him. Officer Sanchez told COPA that ██████ sounded “hopeless”⁵⁵ and mentioned that he had lost a daughter. He also stated that ██████ refused help. After a few minutes of being engaged in such verbal exchange, Officer Sanchez believed that ██████ voice sounded as if he was getting closer and he partially appeared from around the corner wall at the top of the stairs. Officer Sanchez observed ██████ left shoulder, left chest, and a gun in his right hand. ██████ was looking downward with his gun pointed in a 45-degree angle. Officer Sanchez asked ██████ to put the gun down. ██████ responded with “no, fuck that”⁵⁶ and was speaking with his hands, causing ██████ to point his gun at Officer Sanchez twice. Each time Officer Sanchez responded by taking additional cover while maintaining a view of ██████ and telling ██████ to put the gun down. ██████ moved more into view, leading Officer Sanchez to believe that he was going to come down the stairs. Officer Sanchez did not know if all the officers had been evacuated and there was a door behind him leading to the public. Therefore, Officer Sanchez told COPA that he decided to stand his ground and commanded ██████ to not raise the weapon. ██████ responded with “no, no fuck that,”⁵⁷ exposed more of his body at the top of the stairs landing and “aggressively”⁵⁸ pointed his gun in the direction of Officer Sanchez.

Officer Sanchez told COPA that, in fear for his life and to eliminate the threat, he fired his weapon five (5) times toward ██████. When he fired, he was still on the first-floor landing. Simultaneously, Officer Colbenson was somewhere to his right and also fired his weapon. Officer Sanchez stopped firing when he no longer perceived a threat. ██████ responded to shots being fired by “clenching, [and he] started to go down, never dropped the weapon, and then ultimately landed on maybe the second step going downwards...”⁵⁹ ██████ landed on his left side, slightly bent, with his torso on top of the second-floor landing and, with his right hand under his face with his weapon. Officer Sanchez announced that ██████ was down. Officer Sanchez then proceeded to clear the 2nd floor with other SWAT officers. Once it was cleared, he called for Officer Bardsley, a SWAT medic, to render aid to ██████. They moved ██████ up to the second-floor landing to provide him medical aid without disturbing the firearm on a stair. Officer Sanchez observed that ██████ sustained gunshot wounds to his head, right arm and possibly his chest. EMS arrived and ██████ was taken away in an ambulance. Officer Sanchez was qualified with his weapon and had an active FOID (Firearm Owners Identification) card on the date of incident.

In a statement to COPA on August 6, 2019, Officer Daniel Colbenson⁶⁰ stated that on the date and approximate time of incident, he was on-duty, in uniform, assigned to SWAT Unit 353, Beat 4608 and partnered with Officer Shiels. They were leaving Homan Square when the

⁵⁵ Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019, page 36, line 23.

⁵⁶ Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019, page 41, line 7.

⁵⁷ Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019, page 42, line 17.

⁵⁸ Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019, page 42, line 15.

⁵⁹ Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019, page 45, line 14-16.

⁶⁰ Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019 (Attachments 92, 93).

OEMC Citywide radio dispatched SWAT to “a barricaded subject, bipolar, possibly armed.”⁶¹ He further heard over the radio that the subject, ██████████ was actively shooting from inside of the home. He arrived at the scene, met with Officer Sanchez and they proceeded to the residence. Officer Sanchez was the team leader in charge of SWAT at this time.

Officer Colbenson arrived at the front exterior of the residence and was told by an unknown officer that ██████████ was coming down the stairs. When inside, they learned that ██████████ was still upstairs. Officer Sanchez positioned himself at the bottom of the stairs with a shield and his firearm and began to engage in conversation with ██████████ Officer Nguyen positioned himself behind Officer Sanchez as his “long cover”⁶² while Officer Colbenson cleared the first floor and instructed all district officers and a University of Chicago officer to exit. Officer Colbenson then took over as the “long cover” to the left of Officer Sanchez at the bottom of the stairs and pointed his rifle towards the top of the stairs. Officers Nguyen and Shiels went to cover the rear of the residence.

After a few minutes,⁶³ Officer Sanchez began to fire his weapon up the stairs. Simultaneously, Officer Colbenson repositioned himself by going up and over the shield and went to the right side of Officer Sanchez with his right foot approximately two steps up. He observed a partial view of ██████████ to include his right arm, head and upper torso, with a gun that he described as a “threat.”⁶⁴ ██████████ had his arm extended in a 45-degree angle. Officer Colbenson could see the front of the barrel but stated that it was not extended towards him. ██████████ was moving toward the wall along the stairs. Officer Colbenson was approximately 7 to 10 feet in distance from ██████████ when he fired his rifle two (2) times towards ██████████ He stated that he stopped firing when there was no longer a gun pointed in his direction. Officer Sanchez also stopped firing his weapon. ██████████ fell onto his left side with his gun underneath his head area and appeared motionless. Officer Colbenson and other SWAT officers proceeded to clear the second floor. Once it was cleared, Officer Bardsley rendered aid to ██████████ in an attempt to revive him. EMS was called and ██████████ was taken by ambulance to the hospital.

The full capacity of Officer Colbenson’s rifle is 30 rounds in the magazine. On the date of the incident, he was loaded at 26 rounds in the magazine and one (1) round in the chamber for a total of 27 rounds. He told COPA that a member can have less than full capacity for a rifle because “if you go to full capacity, you’re going to create a malfunction...”⁶⁵

On the date of incident Officer Colbenson was qualified with his weapon. He stated that on this date his FOID card was not current, as it had expired.⁶⁶ He immediately reactivated his FOID card, # ██████████, which he received in June of 2019.

⁶¹ Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019, page 18, line 18 - 19.

⁶² Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019, page 28, line 7. Officer Colbenson explained on page 28, lines 22-24 that the role of the “long cover” is to provide “additional cover for the shield as well as everyone behind it as well as everyone around it.”

⁶³ Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019, page 35, line 3.

⁶⁴ Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019, page 37, line 9.

⁶⁵ Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019, page 58, line 14-15.

⁶⁶ See Att. 59.

In a second statement to COPA on December 30, 2019, Officer Daniel Colbenson⁶⁷ stated that he had the opportunity to review a portion of his initial statement at COPA and he stood by his initial statement. Officer Colbenson admitted that he was in violation of Department policy⁶⁸ on the date of the incident because his FOID card was expired.

COPA alleged that on the date and time of incident, Officer Colbenson was in violation of General Order, Uniform and Property Code U04-02-5 because his carbine (rifle) magazine was underloaded by three rounds. Department policy provides carbines should be underloaded by only two rounds.⁶⁹ Officer Colbenson referenced pages in his initial statement and confirmed that his magazine capacity for his Bushmaster carbine was 30 rounds. Officer Colbenson confirmed that on the date of incident, he was loaded at a total of 27 rounds. He admitted his underloading was "...not within policy." Further adding that, "I'm not policy driven when I'm trying to rescue someone."⁷⁰

Officer Colbenson told COPA that he had experienced malfunctions with his rifle multiple times when loaded at the minimum of 28 rounds for a 30-capacity magazine.⁷¹ He asserted that he has verbally expressed his issues with his rifle to his supervisors. COPA requested but Officer Colbenson nor his representative provided any documentation corroborating this assertion.⁷²

b. Digital Evidence

Photographs

Evidence Technician (ET) Photographs⁷³ depict the scene, the recovered evidence, the body and injuries of [REDACTED] and photographs of the involved officers. The photographs depict a semiautomatic handgun, laying in blood, on a step near the top of the main flight of stairs.⁷⁴

Cook County Medical Examiner photographs⁷⁵ depict the body of [REDACTED] to include but not limited to his sustained gunshot wounds, during the autopsy at the Medical Examiner's office.⁷⁶

⁶⁷ Statement of Officer Daniel Colbenson to COPA dated December 30, 2019 (Attachment 106, 138).

⁶⁸ The Department Approved Weapons and Ammunition, Uniform and Property Order U04-02(2) (K) (Attachment 94) was shown to Officer Colbenson during his statement.

⁶⁹ Police Carbine Operator Program, Uniform and Property Order U04-02-05 (Attachment 95).

⁷⁰ Att. 106, page 16, lines 18-20.

⁷¹ Officer Colbenson explained that underloading was helpful because more rounds in the magazine causes more pressure which can result in a small crack on a piece of leaf metal [of the spring] in the magazine and a malfunction. The malfunction would be that a round does not feed into the rifle, or does not feed properly, due to the crack in the leaf metal caused by pressure from too many rounds.

⁷² Att. 93, pages 19-20.

⁷³ Evidence Technician Photographs (Attachment 126).

⁷⁴ Evidence Technician Photographs (Attachment 126), pages 41-50.

⁷⁵ Attachment 35, ME#2019-02338.

⁷⁶ The ME photos correlate with the ME Autopsy report (Attachment 79) which is summarized below.

Video

COPA obtained and reviewed a Department **Electronic Recorded Interview (“ERI”)** of ██████████ recorded by Detective Roxana Hopps on May 22, 2019, at the University of Chicago Hospital. Detective Braun conducted the interview with ██████████ essentially provided the same information as he did during his interview with COPA. In addition, he stated that ██████████ had sent him a text message the night before saying “goodbye.”^{78,79} The ERI depicts ██████████ showing his cell phone screen to Detective Hopps with a text message from ██████████ on May 13, 2019, when ██████████ sent ██████████ a family picture in response to a request from ██████████. Another text message sent from ██████████ to ██████████ on May 22, 2019, at 12:14 a.m. stated ‘Please tell ██████████ I love her, and I’ll see aunt ██████████ soon so we can all be together 1 day.’⁸⁰ A text message at 12:15 a.m. from ██████████ to ██████████ stated, ‘I’ll always watch over u.’⁸¹ ██████████ explained that ██████████ was his sister who died 22 years ago. ██████████ became emotional, and the interview ended.

Multiple **Department Body-worn camera (“BWC”)**⁸² videos were obtained, including video depicting on-scene police activity before and after the incident. None of the body-worn camera footage COPA obtained captured the shooting incident.

The **BWCs of Officer Negron**,⁸³ **Officer Bennett**⁸⁴ and **Officer David Herrera**⁸⁵ depict police activity and contact with ██████████ from inside of the residence before SWAT took over the scene. The BWCs of these Officers depict that they arrived at the location of incident at approximately 11:08 a.m.⁸⁶ and entered the first floor. They encountered several district officers along with UCPD officers inside the front foyer area. ██████████ runs down the stairs and announces that ██████████ has a gun. The majority of the BWC videos of Officer Negron and Officer Bennett depict them positioned at the bottom of the staircase, beginning at approximately 11:12 a.m.,⁸⁷ while taking turns in holding and pointing their firearms towards the top of the stairs. Both Officers Negron and Bennett speak to ██████████ and offer him help, ask him questions, and repeatedly instruct him to put his gun down. ██████████ responds to the officers and repeatedly asks them to come and kill him. He told the officers he had a gun in his hand. Officer Bennett responds that no one is going to die on this day. ██████████ states, “it’s either you or me.”⁸⁸ ██████████ reports that he has not been taking his medication in response to this direct question from Officer Bennett. At times ██████████ sounded as if he was crying. ██████████ states that he is not going to go back to jail. Officer

⁷⁷ ERI of ██████████ (Attachment 125).

⁷⁸ ERI of ██████████ (Attachment 125) at 21 minutes, 56 seconds.

⁷⁹ In addition, the BWC of Officer Bennett and UCPD Sergeant Grays depicts ██████████ telling Officer Bennett about the same text message.

⁸⁰ ERI of ██████████ (Attachment 125) at 22 minutes, 42 seconds.

⁸¹ ERI of ██████████ (Attachment 125) at 22 minutes, 45 seconds.

⁸² Zip File of Non-Material BWC Videos (Attachment 137).

⁸³ BWC Video of Officer Negron (Attachment 63).

⁸⁴ BWC Video of Officer Bennett (Attachment 64).

⁸⁵ BWC Video of Officer Herrera (Attachment 65).

⁸⁶ The timestamping the top right corner is depicted as “T16:08:40Z” which is time told in “Zulu Time.” Zulu Time is another term for Universal Coordinated Time (formerly Greenwich Mean Time).

⁸⁷ BWC Video of Officers Negron, Bennett, and Herrera (Attachments 63-65), at T16:12:24Z.

⁸⁸ BWC Video of Officers Negron, Bennett, and Herrera (Attachments 63-65), at T16:14:43Z

Bennett tells ██████ he would be taken to the hospital. ██████ tells the officers that his daughter died approximately three years ago.

At 11:19 a.m.,⁸⁹ the videos depict the sound of one (1) gunshot from inside the residence. The officers take cover, reposition, and Officer Bennett instructs ██████ to stop shooting. At 11:22 a.m.,⁹⁰ a second (2) gunshot was fired. Officers continued to negotiate with ██████. At 11:28 a.m.,⁹¹ a third (3) gunshot was fired. The video depicts the sound of ██████ crying and he asks that they “smoke” him.⁹² Officer Bennett told ██████ that he (█████) fired a gunshot out of the window. ██████ said he did not want to hurt anyone and asked to be killed. Officer Negron asks ██████ to drop the gun and come downstairs so they could talk. ██████ responds “I can’t drop the gun. I’m gonna smoke everybody that runs up on me.”⁹³ At 11:32 a.m.,⁹⁴ a fourth (4) gunshot was fired. Officers continue to speak with ██████ and offer him help.

At 11:32 a.m.,⁹⁵ a fifth (5) gunshot is heard. Officer Bennett instructs ██████ to stop shooting. A few seconds later, a sixth (6) gunshot is heard. The videos capture officers’ voices in the background stating words to the effect of “he racked it”⁹⁶ and “gun may be jamming.”⁹⁷ At 11:39 a.m.,⁹⁸ Officer Bennett, who is posted in front of Officer Negron at the bottom of the stairs, jumps back along with all other officers. Officer Bennett yells ██████ don’t point the gun at nobody else...⁹⁹ Officer Bennett yells at ██████ to throw down the gun. ██████ stated “no”¹⁰⁰ while sounding clearer and closer. An unidentified officer is heard saying, “he’s coming down the stairs...”¹⁰¹ A few seconds later Officer Bennett asks ██████ what he is doing, and ██████ says, “I’m going to shoot at y’all.”¹⁰² Officer Bennett continues to engage in conversation with ██████

At approximately 11:41 a.m.,¹⁰³ the video depicts SWAT officers announcing their office and request the door be opened. Subsequently, at 11:42 a.m.,¹⁰⁴ SWAT officers enter the front door of the residence and take over the scene. A male SWAT officer, now known to be Officer Sanchez, with a shield and handgun is observed positioned at the bottom of the staircase. A few of the SWAT officers, now known to be Officers Colbenson and Shiels, walk to the kitchen area at the rear of the residence. Officer Sanchez speaks to ██████ by offering him help and instructing him to put down his gun.¹⁰⁵ Seconds later, Officers Negron, Bennett, Herrera and other district officers leave the residence through the rear and take cover behind a garage off of the alley. At 11:46

⁸⁹ BWC Video of Officers Negron, Bennett, and Herrera (Attachments 63-65), at T16:19:04Z

⁹⁰ BWC Video of Officers Negron, Bennett, and Herrera (Attachments 63-65), at T16:22:33Z

⁹¹ BWC Video of Officers Negron, Bennett, and Herrera (Attachments 63-65), at T16:28:26Z

⁹² BWC Video of Officers Negron, Bennett, and Herrera (Attachments 63-65), at T16:29:18Z

⁹³ BWC Video of Officer Bennett (Attachment 64), at T16:31:51Z

⁹⁴ BWC Video of Officers Negron, Bennett, and Herrera (Attachments 63-65), at T16:32:00Z

⁹⁵ BWC Video of Officers Negron, Bennett, and Herrera (Attachments 63-65), at T16:32:07Z

⁹⁶ BWC Video of Officer Negron (Attachment 63), at T16:28:32Z, T16:32:58Z

⁹⁷ BWC Video of Officer Negron (Attachment 63), at T16:32:58Z

⁹⁸ BWC Video of Officers Negron, Bennett, and Herrera (Attachments 63-65), at T16:39:12Z

⁹⁹ BWC Video of Officer Negron (Attachment 63), at T16:39:15Z

¹⁰⁰ BWC Video of Officer Negron (Attachment 63), at T16:39:30Z

¹⁰¹ BWC Video of Officer Negron (Attachment 63), at T16:39:44Z

¹⁰² BWC Video of Officer Negron (Attachment 63), at T16:39:52Z

¹⁰³ BWC Video of Officers Negron, Bennett, and Herrera (Attachments 63-65), at T16:41:04Z

¹⁰⁴ BWC Video of Officers Negron, Bennett, and Herrera (Attachments 63-65), at T16:42:40Z

¹⁰⁵ BWC Video of Officer Bennett (Attachment 64) at T16:44:32Z – T16:45:00Z

a.m.,¹⁰⁶ the video depicts the sound of seven (7) back-to-back, slightly slow-paced, fired shots. Shortly thereafter, the BWC depicts a male voice saying, “one offender down.”¹⁰⁷ Subsequently the officers walk further away from the residence.

The **BWC video of Sergeant Fred Coffey**¹⁰⁸ essentially depicts the same video footage as that of Officer Bennett and Officer Negron. Sergeant Coffey was assigned to Beat 362 on the date of incident and entered the residence while Officer Bennett and Officer Negron negotiated with ██████████. Sergeant Coffey was observed at times walking between the front and rear rooms of the residence while instructing other officers and/or giving radio notifications. In addition, after the video depicts the sounds of the six (6) gunshots from inside the house, whispers appeared to be heard between Sergeant Coffey and a second male that the [█████████] gun is jamming. At approximately 11:34 a.m., Sergeant Coffey announces over the radio “six rounds fired...weapon malfunction.”¹⁰⁹ Subsequently the video depicts SWAT officers arrive to the scene. Sergeant Coffey exits the residence through the rear. At approximately 11:47 a.m., as Sergeant Coffey is walking outside towards Sergeant Claudio, several gunshots are heard faintly in the background. At 11:49 a.m., the notification “one offender down,” is overheard of officers’ radios.¹¹⁰

Multiple **Department In-Car Camera (ICC)**¹¹¹ videos were obtained from responding officers depicting on-scene activity before and after the incident, as well as unrelated ICC video footage. There are no ICC videos that depict the incident.

COPA obtained multiple **University of Chicago Police Department BWCs videos**,¹¹² including from Sergeant Eric Grays and Officer Weigand,¹¹³ who were inside of the residence prior to SWAT’s arrival. All other UCPD BWC videos depict on-scene police response before and/or after the shots were fired by police. None of the BWC camera footage obtained depicts the shots fired by police.

The BWC video of Officer Salvatore Cappelluti and Officer Kyle Dillon depict them arriving to the scene as bicycle officers. They remain around the exterior perimeter of the residence, at times taking cover. At approximately 11:17 a.m., their BWCs depict them in the alley standing at the service door of the garage to the location of incident. The garage door opens, and ██████████ exits the garage. He begins to speak to both officers and tells them, among other things, that he observed a black 9mm [handgun] on the bed. ██████████ stated that ██████████ “kept asking for the police to come up here so I think he is going to try to take a shot at the police so they can kill him...I don’t think he can kill himself.”¹¹⁴

¹⁰⁶ BWC Video of Officers Negron, Bennett, and Herrera (Attachments 63-65), at T16:46:54Z

¹⁰⁷ BWC Video of Officer Negron (Attachment 63), at T16:49:01Z

¹⁰⁸ BWC Video of Sergeant Coffey (Attachment 144).

¹⁰⁹ BWC Video of Sergeant Coffey (Attachment 144), at T16:34:49Z

¹¹⁰ BWC Video of Sergeant Coffey (Attachment 144), at T16:48:59Z

¹¹¹ ICC Videos (Attachment 136).

¹¹² BWC Videos of UCPD Officers (Attachments 69 – 78).

¹¹³ First name unknown.

¹¹⁴ BWC Video of Officer Cappelluti (Attachment 70). at 11:17:45.

Audio

Office of Emergency Management and Communications (“OEMC”) 911 calls and Department transmissions¹¹⁵ are consistent with OEMC Event Queries.¹¹⁶ Such information relayed 911 calls from ██████████ and Department transmissions announcing officer’s response to the location of incident, shots fired by the subject, and SWAT’s arrival to the scene.

At 10:43 a.m., ██████████ called 911 and requested police to come and pick up his son.¹¹⁷ He reported that his son arrived at his home yesterday (May 21, 2019) in which he allowed him to come in, but now won’t leave. He reported that his son had a mental health diagnosis and was not on medication. ██████████ further reported that there was a bench warrant out for his son’s arrest.

At 10:53 a.m., ██████████ called 911 and reported that he had just called 10 minutes prior, and no one had showed up.¹¹⁸ He stated that he had a “domestic problem”¹¹⁹ and wanted to inform the police that according to his wife, his son may have a gun. His son woke up screaming and yelling that his mother took his stuff. His son was diagnosed with a mental health condition approximately 5 to 7 years ago. His son is not on medication. His son has a warrant because he missed a court date on a domestic abuse charge. According to his wife his son wants to turn himself in. He stated that he was standing outside because he did not want to go back in.

OEMC Dispatch¹²⁰ reported a “mental health disturbance”¹²¹ at the location of incident and provided brief information as to what ██████████ reported to 911 and, stated “no details about his mental state.”¹²² Dispatch later reported a “disturbance of a mental”¹²³ including that the subject may have a gun and that he was not taking medication for a mental health diagnosis. Throughout the next several minutes, reports were announced by unknown officers on-scene of the subject possibly having a gun as reported by his father. One officer reported that the subject was requesting that officers go upstairs. Beat 306D announced that the father observed the son in a bedroom with a gun. The subject was “held up in a bedroom upstairs” the officers were secure downstairs, and this appeared to be “CIT situation.”¹²⁴ Announcements were made to secure the perimeter. An ambulance was requested to the area to remain on stand-by. Beat 306D¹²⁵ reported that he learned that the subject had texted his mother about hurting himself the night before.¹²⁶ Beat 362 reported that the subject fired one round.¹²⁷ Beat 320 requested for SWAT. A male officer announced that the subject fired a second round.¹²⁸ A few minutes later Beat 320 announced that a third round

¹¹⁵ OEMC Audio (Attachments 11 – 17).

¹¹⁶ OEMC Event Queries (Attachment 9).

¹¹⁷ 911 Call from ██████████ OEMC event #05396 (Attachment 11).

¹¹⁸ 911 Call from ██████████ OEMC event #05645 (Attachment 12).

¹¹⁹ 911 Call from ██████████ OEMC event #05645 (Attachment 12), at, 19 seconds.

¹²⁰ Department Transmission titled “Z7 10:45-11:45” (Attachment 13).

¹²¹ Department Transmission titled “Z7 10:45-11:45” (Attachment 13), at 10 minutes, 52 seconds.

¹²² Department Transmission titled “Z7 10:45-11:45” (Attachment 13), at 11 minutes 15 seconds.

¹²³ Department Transmission titled “Z7 10:45-11:45” (Attachment 13), at 27 minutes.

¹²⁴ Department Transmission titled “Z7 10:45-11:45” (Attachment 13), at 25 minutes.

¹²⁵ The Case Incident report documents that Officer Negron and Officer Bennett were assigned to Beat 306D.

¹²⁶ Department Transmission titled “Z7 10:45-11:45” (Attachment 13), at 27 minutes.

¹²⁷ Department Transmission titled “Z7 10:45-11:45” (Attachment 13), at 34 minutes.

¹²⁸ Department Transmission titled “Z7 10:45-11:45” (Attachment 13), at 37 minutes.

was fired and may have struck a building next door. Beat 362 announced that five officers were inside of the residence securing the first floor. It was then announced that a fourth round was fired and sounded as if it struck something.¹²⁹ Several seconds later, an officer reported a fifth round was fired by the subject. Beat “Sam 2”¹³⁰ announced that there was now a total of six shots fired by the subject, and they believed that his weapon may have since malfunctioned.¹³¹ At 51 minutes into the audio, Beat 320 announced that SWAT was on scene. At 54 minutes, Beat 320 announced that SWAT was attempting to get in and they were at the front. A male stated “offender is coming down the stairs, he has a weapon, it sounds like its malfunctioning”¹³² Seconds later a male instructs [SWAT] to not come through the front door.

Department Transmission titled “Z7 11:45 – 12:45” includes announcements of SWAT taking over the scene and that all district personnel left the residence. At approximately 7:25 minutes into the audio, Unit 600A requests that a CFD ambulance go to the front of the location to retrieve the “offender.”

c. Physical Evidence

A **Chicago Fire Department (CFD) Ambulance Report**,¹³³ documents the incident type as a SWAT Assist. Ambulance 38 arrived on scene at 11:15 a.m. and remained in the staging area until Department members instructed them to proceed to the location of incident. Ambulance 38 got to the subject at 11:54 a.m. CFD observed the subject to be unresponsive while lying on his back at the top of a staircase. They observed shell casings and a black handgun laying on the staircase. SWAT relocated the handgun due to risk. CFD observed that the subject sustained gunshot wounds to his head, right arm, right shoulder and left elbow area. The subject was transferred to the ambulance. A king airway was placed, and his clothing was removed. It was documented that there was a delay to leave the scene due to Department vehicles blocking the ambulance. During the transport to the University of Chicago Hospital, the subject lost his pulse and CPR was initiated. Upon arriving to the hospital, the subject was transferred to hospital staff.

The **University of Chicago Hospital**¹³⁴ refused to provide [REDACTED] medical records.

The **Medical Examiner’s (ME) Report**¹³⁵ for [REDACTED] documents his date of death as May 22, 2019, and he was examined on May 23, 2019, at 8:53 a.m. by Dr. [REDACTED]. The evidence of injury was multiple gunshot wounds (“GSW”) in which there was a total of eight (8). The entrance wounds were found to be; one (1) entrance GSW on the right side of the forehead in which fragments were recovered from the right side of the brain, one (1) entrance GSW to the left side of the jawline and exited the body, one (1) superficial “irregular” GSW to the left shoulder

¹²⁹ Department Transmission titled “Z7 10:45-11:45” (Attachment 13), at 47 minutes.

¹³⁰ Department Transmission titled “Z7 10:45-11:45” (Attachment 13), at 49 minutes.

¹³¹ Department Transmission titled “Z7 10:45-11:45” (Attachment 13), at 49 minutes.

¹³² Department Transmission titled “Z7 10:45-11:45” (Attachment 13), at 54 minutes, 39 seconds.

¹³³ EMS Ambulance Records (Attachment 46).

¹³⁴ See COPA Medical Records Request dated June 18, 2019 (Attachment 33); COPA Medical Records Request dated May 19, 2020 (Attachment 128); University of Chicago Hospital Response dated May 29, 2020 (Attachment 131).

¹³⁵ Office of the Medical Examiner, Report of Postmortem Examination, # ME2019-02338 (Attachment 79).

that lacerated the skin, one (1) entrance GSW to the anterior aspect of the right arm and exited the body on the upper right side of the back; two (2) superficial GSW to the right side of the chest that lacerated the skin, one (1) ovoid (three dimensional) GSW on the anterolateral aspect of the right arm; and, one (1) ovoid GSW on the posterior aspect of the left wrist. Documents indicate there was evidence of a remote gunshot wound in which a “deformed gray metal projectile fragment was recovered from a...soft tissue pocket in the right leg.”

Toxicology results were positive for Cotinine, Ethanol/Alcohol in which the Blood Alcohol Concentration was 0.375 and showed THC. The cause of death was multiple gunshot wounds, and the manner of death was documented as a Homicide.

In a case report by ME Investigator Ferguson, it was documented that ██████ “had previously been at the emergency room at least eight times for incidents of aggressive behavior...one overdose, and at least three suicide attempts.”¹³⁶ Investigator Ferguson took pictures of ██████ at the hospital and then traveled to and photographed the scene. He observed an “almost-empty bottle of vodka... a soda pop bottle...”¹³⁷ and medicine prescribed to ██████ in the bathroom medicine cabinet.¹³⁸

Department **Crime Scene Processing Reports (“CSPR”),**¹³⁹ **Evidence Plat,**¹⁴⁰ **Inventory Sheets**¹⁴¹ and a **COPA [On-scene] Evidence Observation Summary Report**¹⁴² document, among other things, the location and type of evidence collected in connection with the incident. Documents indicate that the Ruger EC9S 9mm pistol in ██████ possession was not registered.

Evidence technicians recovered a total of thirteen expended shell casings and other evidence following the incident, including, but not limited to:

- Six (6) expended shell casings stamped “FC 9mm Luger,” recovered from the 2nd floor front bedroom (CSM #10-16).¹⁴³
- Four (4) expended shell casings stamped “Win 9mm Luger +P” recovered from the 2nd stair of the front stairway to the 2nd floor (CSM # 3-6) and, one (1) expended shell casing stamped “Win 9mm Luger +P” recovered from the foyer floor next to the front stairway to the 2nd floor.¹⁴⁴

¹³⁶ Office of the Medical Examiner, Report of Postmortem Examination, # ME2019-02338 (Attachment 79), at page 26.

¹³⁷ Office of the Medical Examiner, Report of Postmortem Examination, # ME2019-02338 (Attachment 79), at page 27.

¹³⁸ Office of the Medical Examiner, Report of Postmortem Examination, # ME2019-02338 (Attachment 79), at page 27.

¹³⁹ Crime Scene Processing Report # 400638 (Attachment 23).

¹⁴⁰ Crime Scene Worksheet (Attachment 120).

¹⁴¹ Property Inventory Reports (Attachment 25).

¹⁴² Firearm Qualifications Report and COPA Evidence Observation Summary Report (Attachments 51, 59).

¹⁴³ Property Inventory Reports (Attachment 25), at Inventory # ██████.

¹⁴⁴ Property Inventory Reports (Attachment 25), at Inventory # ██████.

- One (1) expended shell casing stamped “Winchester 223 REM” recovered from the 3rd stair of the front stairway to the 2nd floor (CSM #2) and, one (1) expended shell casing stamped “Winchester 223” recovered from the 2nd stair of the front stairway to the 2nd floor (CSM #3).¹⁴⁵
- Bushmaster M4, .556 caliber rifle, serial # [REDACTED], belonging to Officer Colbenson. This firearm was recovered with a 30-round capacity magazine, 24 live rounds stamped “Winchester 223 REM” from the magazine¹⁴⁶ and, one live round stamped “Winchester 223 REM” recovered from the chamber of the rifle.¹⁴⁷
- Glock model 17, semi-automatic pistol, serial # [REDACTED] belonging to Officer Sanchez. This firearm was recovered with a 17-round capacity magazine, 12 live rounds stamped “Win 9mm Luger +P” recovered from the magazine and, one live round stamped “9mm Luger +P” recovered from the chamber of the pistol.¹⁴⁸
- Ruger EC9S 9mm, semi-automatic pistol, serial # [REDACTED] (CSM #8), belonging to [REDACTED]. This firearm was recovered with a 7-round magazine and, one (1) live round stamped “FC 9mm Luger,” recovered from the chamber of the firearm.¹⁴⁹

Additionally, a Gun Shot Residue kit #19-005 was administered to the hands of [REDACTED] while at the University of Chicago Hospital.¹⁵⁰

Illinois State Police (ISP) Forensic Science Laboratory Reports¹⁵¹ include Firearms, Latent Print and Microscopy Trace results. The lab results document that all firearms tested, including the Ruger, Glock, and Bushmaster, were operable. In addition, a total of two (2) Winchester 223 Remington fired cartridge casings were found inconclusive when compared to the Bushmaster rifle belonging to Officer Colbenson. A total of five (5) Winchester 9mm Luger +P cartridges were determined to have been fired from a Glock model 17 belonging to Officer Sanchez; and it was determined that six (6) 9mm luger fired cartridge casings were fired from the Ruger semi-automatic pistol belonging to [REDACTED]

An ISP report dated August 14, 2019, of a latent print tested on [REDACTED] firearm, a Ruger semi-auto pistol, documents that one (1) pistol, one (magazine) and one (1) live cartridge, resulted in “no suitable latent prints.”

¹⁴⁵ Property Inventory Reports (Attachment 25), at Inventory # [REDACTED].

¹⁴⁶ This is consistent with Detective Supplementary report titled “Progress” under Att. 132, page 9. However, this is inconsistent with the Major Incident Notification report Att. 30 that documents that there were 25 live rounds recovered from the magazine.

¹⁴⁷ Property Inventory Reports (Attachment 25), at Inventory # [REDACTED].

¹⁴⁸ Property Inventory Reports (Attachment 25), at Inventory # [REDACTED].

¹⁴⁹ Property Inventory Reports (Attachment 25), at Inventory # [REDACTED].

¹⁵⁰ Property Inventory Reports (Attachment 25), at Inventory # [REDACTED].

¹⁵¹ Illinois State Police Forensic Laboratory Reports (Attachments 117 – 119, 145).

An ISP report dated April 13, 2021, of a Microscopy Trace via a Gunshot Residue Kit #19-005 administered to ██████ documents that samples tested from the back of his right hand, back of his left hand and a “room control” were found to contain “particles characteristic of background samples.” However, the test concluded that ██████ did not discharge a firearm with either hand and if he did “then particles were not deposited, were removed by activity, or were not detected by the procedure.”¹⁵²

d. Documentary Evidence¹⁵³

A **Department Arrest Report**¹⁵⁴ documents that on May 22, 2019, at 11:50 a.m., ██████ was charged with four (4) counts of Aggravated Assault/Use Firearm/Peace Officer.¹⁵⁵ The victims were documented as Officer Sanchez, Officer Colbenson, Officer Negron and Officer Bennett. The narrative of the arrest report documents, in essence, that ██████ was placed in custody after pointing a firearm at the above-mentioned officers. Officer Sanchez and Officer Colbenson fired at ██████ “in defense of their lives.” ██████ sustained gunshot wounds and was placed in custody and taken to the University of Chicago Hospital. While at the hospital he succumbed to his injuries and was pronounced deceased at 12:28 p.m. by Dr. ██████.

Detective Supplementary Reports¹⁵⁶ document information collected and reported by the Department regarding the May 22, 2019, officer-involved shooting of ██████. All Detective Supplementary Reports provide essentially the same information as documented in the Arrest Report and/or Original Case Incident Report. In addition, the reports include statements taken of witness officers and involved officers, all of which are consistent with statements given to COPA and/or as shown on BWC video.

The reports further document that Detective Sandoval interviewed Detective M. Wright, who stated that he arrived on scene as the negotiator. Detective Wright spoke to the family during the time of incident and gathered information about ██████. ██████ notified him that ██████ was firing a gun while on the second floor of the residence. At 12:14 a.m., ██████ sent a text to ██████ making a reference to his deceased aunt and “expressed suicidal ideation.”¹⁵⁷ The documents indicate that ██████ told Detective Wright that ██████ told him he wanted the police to shoot him.

¹⁵² ISP Trace laboratory report (Attachment 145).

¹⁵³ SWAT Unit 353 did not complete a SWAT Mission Plan, SWAT Incident Log or Supplemental Report. See Att. 55. SWAT Unit 353 provided COPA with a redacted copy of the SWAT Standard Operation Procedures.

¹⁵⁴ Arrest Report, RD # ██████ (Attachment 3). This information is corroborated by the following Department Original Case Incident Reports: RD # ██████ Event # ██████ titled “Assault – Aggravated PO: Handgun”; RD # ██████ Event # ██████ titled “Law Enforcement Related – Death – Officer Involved Shooting.” for RD # ██████ Event # ██████ titled “Assault – Aggravated PO: Handgun” and for RD # ██████ Event # ██████ titled “Law Enforcement Related – Death – Officer Involved Shooting” (Attachments 2 and 121).

¹⁵⁵ The Case Incident Report documents that ██████ was charged with ten (10) counts of Aggravated Assault with a handgun against an officer.

¹⁵⁶ Detective Supplementary Reports RD # ██████ and RD # ██████ (Attachments 4, 5, 122, and 132-135). These reports indicated they should be read in conjunction with one another.

¹⁵⁷ Case Supplementary Report # ██████ (Attachment) 134), at page 13.

General Progress Reports¹⁵⁸ document essentially the same information as in the case incident reports and detective supplemental reports including, but not limited to, identifying involved parties, responding officers on-scene, statements from witness officers, involved officers, and parents of ██████████

In addition, Detective Roxanne Hopps¹⁵⁹ reported that she spoke to ██████████ mother, ██████████ who stated in summary, that her son had just arrived from Arizona. She spoke to him on the morning of the incident, and they were in an argument as ██████████ accused her of taking his “stuff” and his gun. She described him as being in distress. ██████████ told ██████████ he was not supposed to have gun as he had previously been arrested on a gun charge. ██████████ never saw a gun. He had previously attempted suicide and was hospitalized. Detective Hopps spoke to ██████████ while at the University of Chicago Hospital, and ██████████ essentially reported the same information as in his 911 call to OEMC, statement to COPA, ERI video interview as well as conversations between him and several officers that were depicted in BWC video footage. At the age of 14 his son had attempted to commit suicide by taking pills. He has had treatment for mental illness at Lakeshore Hospital, Hines Hospital, Mercy Hospital and Rush Hospital. His son had a psychologist out of Northwestern Hospital. His son did not like to take medication and had not been on them for approximately one year.

A **Major Incident Notification Report**¹⁶⁰ documents the date, time and location of incident and involved parties. A secondary RD # ██████████ was documented. It was documented that the “offenders” (sic) weapon, a Ruger pistol, was recovered on the top stair inside of the residence. It was documented that Officer Sanchez’ firearm, a Glock 17, was recovered with 12 live rounds in the magazine and one (1) live round in the chamber and with FOID # ██████████. Officer Colbenson’s firearm, a Bushmaster rifle, was recovered with 25 rounds in the magazine and one (1) round in the chamber.¹⁶¹

Tactical Response Reports¹⁶² for Officer Sanchez and Officer Colbenson, document that ██████████ was armed, he had a documented mental illness/emotional disorder, and CFD Emergency Management Service (“EMS”) and a “SWAT medic” provided medical treatment. ██████████ did not follow verbal direction, was an imminent threat of battery with a weapon, physically attacked with a weapon and used force likely to cause death or great bodily harm. His weapon use was documented as “member at gunpoint.” Officer Sanchez and Officer Colbenson indicated in their reports that they used force mitigation efforts including member’s presence, verbal directions, specialized units, tactical positioning, additional unit members, a ballistic shield and use of their firearms.

¹⁵⁸ General Progress Reports, RD # ██████████ (Attachment 124).

¹⁵⁹ Detective Hopps is a member of the Incident Response Team.

¹⁶⁰ Major Incident Notification Report (Attachment 30).

¹⁶¹ This is inconsistent with Department and COPA documentation that documented those 24 live rounds were recovered from the magazine and one (1) live round in the chamber. [COPA is unable to determine the reason for the discrepancy.]

¹⁶² Tactical Response Report by Officer Colbenson (Attachment 19); Tactical Response Report by Officer Sanchez (Attachment 20).

A **Canvass Report**¹⁶³ documents COPA investigators canvassed the area of incident on May 23, 2019 but did not identify additional witnesses.

e. Additional Evidence

A **COPA Summary report** titled **Observation of Clearing of Firearm**¹⁶⁴ documents that on May 22, 2019, after the incident and while on-scene inside of a Department Command van, COPA members and Department personnel observed the processing and clearing of Officer Sanchez' and Officer Colbenson's firearms. Officer Sanchez' firearm was reported to be a Glock 17, 9mm pistol. It was cleared with one (1) live round from the chamber and twelve (12) live rounds from the magazine. The ammunition that was cleared from the firearm were all described as being a 9mm Winchester Luger + P. The magazine capacity was seventeen (17) rounds. Officer Colbenson's firearm was reported to be a Bushmaster M4 rifle. It was cleared with one (1) live round from the chamber and twenty-four (24) live rounds from the magazine. The ammunition that was cleared from the firearm were all described as being Win. .223 REM. The magazine capacity was thirty (30) rounds.

COPA obtained and reviewed **Department Firearms Training and Certification Report** that includes firearm qualification and FOID card status for Officer's Sanchez and Colbenson.¹⁶⁵ It is documented that Officer Sanchez was qualified with his Glock 17, serial # [REDACTED] on the date of incident and had an active FOID card. Officer Colbenson was qualified with his carbine, Bushmaster firearm on the date of incident. The FOID card section was blank.

On April 1, 2021, the Estate of [REDACTED] filed a **civil complaint 21 CV [REDACTED]** against Defendants CPD Officers Colbenson and Sanchez and the City of Chicago. The complaint allegations included but were not limited to Excessive Force, Wrongful Death, Willful and Wanton Infliction of Emotional Distress, and *Monell* claims.¹⁶⁶

VI. LEGAL STANDARD

Use of Force.

CPD Policy states that the "Department's highest priority is the sanctity of life."¹⁶⁷ CPD members are expected to act with the utmost regard for preserving human life and must comply with CPD use of force orders.¹⁶⁸ CPD's policy in place on the date of the incident provides that a

¹⁶³ COPA Investigative Report: Summary of Canvas (Attachment 139).

¹⁶⁴ COPA Investigative Report: Observation of clearing of firearms (Attachment 129).

¹⁶⁵ Firearms Training and Certification Report for Officer Colbenson (Attachment 59); Firearms Training and Certification Report of Officer Sanchez (Attachment 60).

¹⁶⁶ Attachment #148.

¹⁶⁷ General Order G03-02 (effective October 16, 2017, to February 28, 2020) (hereinafter the "Use of Force Order").

¹⁶⁸ Questions as to the propriety of a police officer's use of force, including excessive or deadly force, are also typically evaluated under state law as well as the 4th Amendments to the United States Constitution and Illinois state Constitution. However, CPD policy in place at the time of the incident in this case prohibited the use of deadly force under circumstances that would have been permissible under state law and 4th amendment law, meaning that CPD

CPD member's use of force must be evaluated based on the totality of the circumstances known by the member at the time of the incident, from the perspective of a reasonable Department member in the same or similar circumstances, and without the benefit of 20/20 hindsight.¹⁶⁹ CPD policy recognizes that Department members must "make split-second decisions – in circumstances that are tense, uncertain, and rapidly evolving-about the amount of force that is necessary in a particular situation."¹⁷⁰

CPD General Order entitled "Use of Force" provides that a member's use of force must be "objectively reasonable, necessary, and proportional."¹⁷¹ Each of these elements is further explained in CPD policy, as follows:

- Objectively Reasonable: In evaluating use of force, CPD policy provides that the key issue is whether the Department member's use of force was objectively reasonable under the totality of the circumstances at the time force is used. Although "reasonableness" cannot be precisely defined, CPD policy states the following non-exclusive list of factors can be considered:
 - whether the subject is posing an imminent threat;
 - the risk of harm, level of threat, or resistance presented by the subject; and
 - the subject's proximity or access to weapons."¹⁷²
- Necessary. Department members are limited to using "only the amount of force required under the circumstances to serve a lawful purpose."¹⁷³
- Proportional. A Department member's use of force must be proportional to the "threat, actions, and level of resistance offered by a subject."¹⁷⁴

To reduce or avoid the need for use of force, Department policy directs members to use de-escalation techniques and "Principles of Force Mitigation" when safe and feasible under the circumstances.¹⁷⁵ These concepts include techniques such as:

- "Continual Communication," which means using verbal control techniques to avoid or minimize confrontations before resorting to physical force. This includes using persuasion, advice, instruction, and warning prior to any use of force;
- "Tactical Positioning," which involves use of positioning, distance, and cover to contain a subject and create a zone of safety for officers and the public; and
- Using "Time as a Tactic" to, among other things, permit the de-escalation of a subject's emotions and provide time for the subject to comply with police orders, provide time for continued communication, and allow for the arrival of additional members or special units and equipment.¹⁷⁶

policy is *more* restrictive than state law and federal 4th amendment law. COPA's analysis therefore focuses solely on whether Officer Sanchez's and Officer Colbenson's use of deadly force complied with CPD policy in place at the time of the incident, May 22, 2019. COPA cites to judicial decisions in its analysis solely as an aide to interpretation of common concepts or terms (such as the meaning of "objectively reasonable").

¹⁶⁹ Use of Force Order, section II.D.

¹⁷⁰ Use of Force Order, section II.D.

¹⁷¹ Use of Force Order, section III.B.

¹⁷² Use of Force Order, section III.B.1(a)-(c).

¹⁷³ Use of Force Order, section III.B.2.

¹⁷⁴ Use of Force Order, section III.B.3.

¹⁷⁵ Use of Force Order, section III.B.4; *see also* G.O. 03-02-01 (the "Force Options Order"), section III.

¹⁷⁶ Force Options Order, section III.

When employing these techniques, Department members are required to continually assess the situation and modify their use of force in ways that ensure officer safety as circumstances develop.¹⁷⁷

a. Use of Deadly Force.

A Department member's use of deadly force, which includes the discharge of a weapon in the direction of a person subject to arrest, is controlled by additional policy restrictions. In particular Department members may only use deadly force as a "last resort" when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person.¹⁷⁸ A threat is defined as "imminent" when it is objectively reasonable to believe that:

- (a) the subject's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken;
- (b) the subject has the means or instruments to cause death or great bodily harm; and
- (c) the subject has the opportunity and ability to cause death or great bodily harm."¹⁷⁹

The Department's definition of "last resort" re-enforces the principle that a Department member may only use deadly force when presented with an "imminent threat."¹⁸⁰

The Force Options Order outlines the force options available to Department members when met with resistance or threats.¹⁸¹ The Force Options Order authorizes the use of deadly force in situations involving an "assailant," which is defined as a subject whose actions constitute an imminent threat of death or great bodily harm to a Department member or another person.¹⁸²

¹⁷⁷ Use of Force Order, section III.B.4.

¹⁷⁸ Use of Force Order, section III.C.3.

¹⁷⁹ The Force Options Order the force options available to Department members when met with resistance or threats. That General Order authorizes the use of deadly force in situations involving an "assailant," defined under the order as a subject whose actions constitute an imminent threat of death or great bodily harm to a Department member or another person. G03-02-01(IV)(C)(2). The standards in the Force Options directive therefore substantially mirror those in the Use of Force Order.

¹⁸⁰ *Id.*

¹⁸¹ Use of Force Order, section III.C.

¹⁸² Force Options Order, section IV.C.2.

b. Firearms Directives.

Department policy requires all members to have a valid FOID card and possess the FOID card while on duty.¹⁸³ Moreover, policy dictates that carbine magazines will be loaded two rounds short of capacity.¹⁸⁴

c. Standard of Proof.

For each allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

While COPA did not serve allegations related to Officers Sanchez and Colbenson's use of deadly force, COPA evaluate the use of deadly force applying the preponderance of the evidence standard.¹⁸⁵

A **preponderance of evidence** is evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.¹⁸⁶ If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense.¹⁸⁷ Clear and convincing is defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true."¹⁸⁸

¹⁸³ Department Approved Weapons and ammunition, Uniform and Property Order U04-02 VI.A.4 (effective June 2, 2017) (Attachment 94).

¹⁸⁴ Police Carbine Operator Program, Uniform and Property Order U04-02-05 IX.D.4 (effective Mar. 8, 2019). (Attachment 95). Department policy provides a note that the purpose of loading a carbine two short of capacity is to ensure proper seating of the magazine.

¹⁸⁵ See Municipal Code of Chicago §2-78-110.

¹⁸⁶ See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005) ("A proposition is proved by a preponderance of the evidence when it has been found to be more probably true than not.").

¹⁸⁷ See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

¹⁸⁸ *Id.* at ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

VII. LEGAL ANALYSIS

A preponderance of the evidence demonstrates that each of Officer Sanchez's and Colbenson's use of deadly force was objectively reasonable under the totality of the circumstances. Their firearm discharges were a necessary and proportional last resort to prevent the imminent threat of death or great bodily harm [REDACTED] posed to officers and others.

In reaching its conclusions, COPA evaluated all available statements and evidence discussed above, to weigh the credibility of all involved parties. COPA recognizes that the statements of Officers Sanchez and Colbenson are the only evidence that [REDACTED] posed an imminent threat at the moment the officers discharged their firearms. Given the totality of the evidence and in the absence of contradictory evidence, COPA cannot conclude that the statements of Officer Sanchez or Officer Colbenson are inaccurate or untruthful. Rather, as part of its review, COPA found Officers Sanchez and Colbenson to be credible.¹⁸⁹ Their statements are materially consistent with each other and with the statements of the other officers on scene, and are supported by video, firearm, and physical evidence, all suggesting that [REDACTED] was becoming increasingly threatening and aggressive as the situation developed.

A. In each case, Officer Sanchez's and Officer Colbenson's use of force was permissible under Department policy.

1. Officer Sanchez's and Officer Colbenson's use of force was objectively reasonable given the circumstances known to them at the time.

COPA finds that it was objectively reasonable for Officer Sanchez and Officer Colbenson to believe that [REDACTED] posed an imminent threat of death or great bodily harm for the following reasons.¹⁹⁰

First, the officers were informed before and upon their arrival that [REDACTED] was armed with a firearm and that he had discharged his firearm already. They had also been told that [REDACTED] was starting to come down the stairs in the home towards officers. At the time the officers used force, the officers believed [REDACTED] had come down the top steps to the landing and was beginning to round the corner as if, according to Officers Sanchez and Colbenson, he was going to come down the main flight of steps.¹⁹¹ Officer Sanchez said that at this time, [REDACTED] pointed the weapon aggressively and verbally refused to put his gun down. Officer Sanchez then fired his weapon. Officer Colbenson also saw [REDACTED] holding the firearm, just after Officer Sanchez fired the first

¹⁸⁹ COPA additionally finds Mr. [REDACTED] and all other officers to be credible and their accounts to corroborate the shooting officers' accounts of why they used deadly force. However, they were not eyewitnesses to any of the officers' firearm discharges, and, therefore, have limited weight in evaluating the officers' uses of deadly force.

¹⁹⁰ COPA analyzed each officer's use of force independently, however, due to the significant similarity between the officers' perspective and their articulated justification regarding their use of force, COPA provides one summary which encompasses both officers' use of force.

¹⁹¹ The crime scene photos depicting [REDACTED] firearm and the location of [REDACTED] blood pooled on the stair landing and splattered on the walls are consistent with Officer Sanchez's description of [REDACTED] beginning to come down the stairs. (Att. 126, pages 39-43).

volley of shots. Officer Colbenson said that [REDACTED] was holding the firearm outward, in a manner that he believed to be a threat. Under these circumstances, the officers reasonably believed that [REDACTED] now posed a threat to them, and any other officer present.

Second, the preponderance of the evidence supports that [REDACTED] had an instrument to cause death or great bodily harm, because he was armed with a firearm. The fact that he had a firearm was initially reported by [REDACTED] who ran down the steps not long after officers arrived, shouting for help and stating that [REDACTED] had a gun. [REDACTED] then explained [REDACTED] firearm in detail to district officers (who subsequently conveyed that information over OEMC). The fact that [REDACTED] had a weapon was corroborated by [REDACTED] telling the officers that he had a gun in his hand and confirmed when [REDACTED] began firing, which was overheard on the BWC of the officers inside the residence. Officers Sanchez and Colbenson both stated that, prior to arrival, they heard over the radio that [REDACTED] was armed, and they are further captured on BWC being briefed by the other officers that [REDACTED] has a gun and had fired. The two officers then confirmed this information for themselves when they saw [REDACTED] firearm as he showed his body from around the corner at the top of the stairs.

2. Officer Sanchez's and Officer Colbenson's use of force was necessary and proportional under the circumstances.

COPA finds that Officers Sanchez and Colbenson each used the amount of force required under the circumstances to serve a lawful purpose. Their force was, in each case, proportional to the threat, actions, and level of resistance that [REDACTED] offered. As discussed above, Officers Sanchez and Colbenson fired their weapons believing that [REDACTED] was pointing his weapon in their direction and beginning to approach the officers at the bottom of the stairs. The officers had been told that [REDACTED] had already fired his weapon several times. [REDACTED] also repeatedly refused to disarm when officers directed him to do so. [REDACTED] therefore presented a high level of threat and resistance. Officer Sanchez and Colbenson each stopped firing when they no longer perceived [REDACTED] as a threat.

3. Officers' attempts to de-escalate were sufficient under the totality of the circumstances.

In addition to these factors, several officers, including Officer Sanchez, made reasonable attempts to deescalate the encounter. The de-escalation attempts began with the district officers, led by Officer Bennett, who communicated with [REDACTED] prior to the arrival of SWAT. Through this communication, as well as using their positioning at the bottom of the steps, the officers were able to use time as a tactic to prolong the encounter without using deadly force. However, during this communication [REDACTED] fired his weapon six times, and officers were unsure where he was firing. He also made a threat that he would "smoke" any officer who came up the stairs.¹⁹² Moreover, as the conversation progressed, officers believed that [REDACTED] moved closer to the top of the stairs.

As SWAT took control of the scene, Officer Sanchez, who is CIT trained, also attempted to establish and continue verbal communication with [REDACTED]. This initial part of this conversation is captured on the BWC of the other officers, with Officer Sanchez yelling "talk to me [REDACTED]"

¹⁹² See, BWC Video of Officer Bennett (Attachment 64), at T16:31:55Z.

“how you doing?”, and “I’m trying to help you out, can I help you out?”¹⁹³ According to Officer Sanchez, he attempted to talk to ██████ for a few minutes prior to shooting ██████ which is consistent with the timing of when SWAT arrived and when gunshots were heard on BWC.

However, Officer Sanchez articulated that he was unable to continue this communication effectively, and that he did not believe he was able to use the time as a tactic, and positioning aspects of de-escalation. Officer Sanchez thought he could not use time or positioning because ██████ was beginning to come down the stairs, which would have led him immediately to the front door, so Officer Sanchez believed he needed to stand his ground so that ██████ could not endanger officers who may not yet have cleared the house and/or officers or civilians outside the home. Additionally, Officer Sanchez indicated that ██████ came down the steps pointing the firearm aggressively; Officer Colbenson also described that when he saw the gun, he believed that ██████ hand on his firearm posed a threat.

COPA acknowledges that the District Officers, led primarily by Officer Bennett engaged in dialogue with ██████ for approximately thirty-one minutes, and did not resort to use of deadly force even when ██████ shot his weapon multiple times, while on the other hand, Officers Sanchez and Colbenson used deadly force within six minutes of entering the home. However, ██████ was beginning to become more aggressive even before SWAT arrived, as evidenced by his threat to “smoke” officers and the appearance that he was getting closer to the top of the steps. Once Officer Sanchez took over the attempted dialogue,¹⁹⁴ ██████ continued to act in a manner that Officer Sanchez described as refusing help. ██████ then came down the stairs and showed himself to officers and did so while pointing his gun in a manner that Officer Sanchez believed to be threatening. These actions, coupled with Officer Sanchez’ belief that ██████ would pose a threat to officers inside the home as well as officers and civilians outside the home if he came down the stairs, rendered it objectively reasonable for Officer Sanchez as well as Officer Colbenson, to believe that deadly force was necessary last resort, even though the District Officers had engaged ██████ for far longer without using deadly force.

4. Officer Sanchez’s and Officer Colbenson’s use of deadly force was authorized under Department policy.

COPA finds that ██████ actions during the incident, as described more fully above, constituted an imminent threat of deadly or great bodily harm to Officers Sanchez and Colbenson and other officers. First, Officers Sanchez and Colbenson reasonably believed that ██████ was becoming increasingly aggressive and beginning to move down the stairs while pointing his firearm in the officers’ direction and that action was therefore necessary to protect against death or great bodily harm. Second, ██████ had the means and opportunity to cause great bodily harm through his continued possession of a loaded firearm. Third, it was objectively reasonable for Officers Sanchez and Colbenson to believe that ██████ had the opportunity and ability to cause death or great bodily harm. ██████ had already fired the weapon several times prior to their

¹⁹³ See, BWC Video of Sergeant Coffey (Attachment 144), at T16:43:30Z-T16:45:00Z.

¹⁹⁴ Officer Sanchez can be heard speaking to ██████ on the BWC of Officer Bennett between approximately T16:44:32Z to T16:45:00Z, at which time Officer Bennett exits the residence from the rear.

arrival.¹⁹⁵ While it was unclear to any officers where those shots went,¹⁹⁶ a few minutes prior to SWAT's arrival, OEMC stated over the radio that the backyard was a "hot zone" due to the fact that [REDACTED] bedroom overlooked the yard. Officers Sanchez and Colbenson knew that the officers were vacating the home through the rear and could be in the line of fire.¹⁹⁷ Additionally, as Officer Sanchez articulated to COPA, he believed that [REDACTED] was coming down the stairs that led to the front door, which would lead him to any officers or other people on the street. Thus, in the initial portion of Officer Sanchez' and Colbenson's interaction with [REDACTED] he had the opportunity to cause death or great bodily harm to the officers exiting through the back, and as the encounter progressed to [REDACTED] coming down the stairs, he now posed a threat of death or great bodily harm to Officers Sanchez and Colbenson, any other officer still inside, and the large number of officers outside on the street. For these reasons, [REDACTED] met the definition of an "assailant" under Department policy. Accordingly, Officers Sanchez and Colbenson were authorized to use deadly force under Department policy.

B. Officer Colbenson violated Department firearms directives by failing to possess a valid FOID card on the date of the incident and by underloading his carbine.

1. Allegation #1 against Officer Colbenson is sustained because he did not possess a valid FOID card on the date of the incident.

Officer Colbenson admitted to COPA that his FOID was expired on the date of the shooting. His education and training records do not show him having a FOID card number or a FOID expiration date. Therefore, COPA finds that Allegation #1 against Officer Colbenson that he violated of Department policy in that his Firearm Owner's Identification Card (FOID) was expired is SUSTAINED in violation of Rule 6.

2. Allegation #2 against Officer Colbenson is sustained because he underloaded his carbine.

Officer Colbenson admitted to COPA that he was underloaded by three rounds short of capacity. This is supported by physical evidence showing that he fired two shots, but his firearm was five shots under capacity following the incident. COPA acknowledges that the department's MIN report indicated that there were 25 live rounds in the magazine following the shooting. However, the ISP report indicates there were only 24 rounds, and COPA observed only 24 rounds during their viewing of the break-down of the firearm. Therefore, COPA finds that there were 24 rounds in the magazine, with one in the chamber, following the shooting, which was one below required under Department policy.

¹⁹⁵ Officer Sanchez indicated to COPA that he knew prior to arrival that [REDACTED] had fired shots; however, he did not know how many shots or where they were fired from. Statement of Officer Orlando Sanchez, Jr. to COPA dated August 6, 2019 (Attachments 88, 89), at p. 27 lines 9-19.

¹⁹⁶ Once he exited the home, Officer Bennett explained to other officers that he believed [REDACTED] was shooting out the bedroom window, however, this was not corroborated.

¹⁹⁷ Officer Sanchez did not expressly state that he had heard this transmission.

While Officer Colbenson explained that he underloads his firearm for safety reasons, Department policy does not provide an exception allowing officers to underload their carbines. Additionally, COPA was unable to locate any record, nor did Officer Colbenson provide, any written record of requesting an exception. Therefore, COPA finds that Allegation #2 against Officer Colbenson in that he violated Uniform and Property Order U04-02-05, in that his carbine magazine was underloaded three rounds short of capacity, in excess of the permissible two round allowance is SUSTAINED in violation of Rule 6.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Daniel Colbenson

i. Complimentary and Disciplinary History

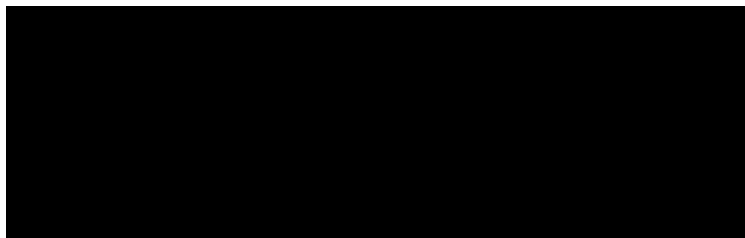
Officer Colbenson's Complimentary History includes: 1 – 2004 Crime Reduction Ribbon, 1 – 2009 Crime Reduction Award, 1 – 2019 Crime Reduction Award, 1 – Attendance and Recognition Award, 10 – Complimentary Letters, 2- Department Commendations, 14 – Emblem of Recognition-Physical Fitness, 69 – Honorable Mentions, 1 – Honorable Mention Ribbon Award, 1 – Life Saving Award, 1 – NATO Summit Service Award, 1 – Presidential Election Deployment Award 2008, and 1 – Unit Meritorious Performance Award. Officer Colbenson does not have Sustained CR or SPAR history.

ii. Recommended Penalty

COPA finds that the allegation for Officer Colbenson failing to possess a valid FOID card at the time of the incident, and for underloading his carbine is Sustained. Officer Colbenson offered a reasonable explanation with respect to his decision of underload his carbine and COPA does not have serious concerns about his conduct with respect to that allegation. However, the failure to maintain a valid FOID card is serious in nature. A sworn officer's right to carry and use a firearm is premised on having the necessary credentials and training. While it may seem like an inconsequential matter, civilians are arrested and charged with criminal offenses for possessing firearms without the proper credentials. The Department must hold its officers to the same standards it expects of the public, if not higher. The mitigating factor for Officer Colbenson is that upon realizing the issue, he acted quickly to renew his FOID card. Accordingly, COPA recommends a 30-day suspension.

IX. CONCLUSION

For the reasons discussed above, COPA finds that a preponderance of the evidence establishes that it was objectively reasonable for Officers Sanchez and Colbenson to find that ██████ posed an imminent threat of death or great bodily harm, and that their use of deadly force was necessary, proportional, and used as the last resort. Therefore, COPA finds Officers Sanchez's and Colbenson's use of deadly force complied with Department policy.



8-31-2021

Andrea Kersten
Interim Chief Administrator

Date

Appendix A

Assigned Investigative Staff

Squad#:	8
Major Case Specialist:	Caterina Oliveri
Supervising Investigator:	Sherry Daun
Deputy Chief Administrator:	Angela Hearts-Glass